

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GERALD LEITZKE,

Plaintiff,

v.

F/V KELSEY NICOLE, et al.,

Defendants.

C15-439 TSZ

ORDER

THIS MATTER comes before the Court on defendant Joshua J. Miller's partial motion to dismiss, docket no. 16, the first, second, fourth, and seventh claims for relief. As a result of developments in the related action in Snohomish County Superior Court, Miller has withdrawn his motion to dismiss with respect to the second and seventh claims. See Reply at 2 (docket no. 27). Plaintiff Gerald Leitzke concedes that his first claim relating to unpaid permit shares and crew wages for 2011 is time-barred and should be dismissed. See Response at 4 (docket no. 18). Thus, the only issue for the Court to decide is whether plaintiff's fourth claim for negligence allegedly resulting in personal injury on October 24, 2011, is precluded by the applicable three-year limitation period. The Court concludes that plaintiff's fourth claim was untimely brought. A civil action

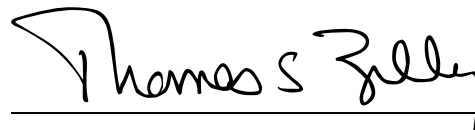
1 for damages for personal injury arising out of a maritime tort must be brought within
2 three years after the cause of action arose. 46 U.S.C. § 30106; see Nasser v. Hudson
3 Water Ways Corp., 563 F. Supp. 88, 90 (W.D. Wash. 1983). Plaintiff was required to file
4 his fourth claim by October 24, 2014, but he did not commence this action until
5 March 20, 2015, see Compl. (docket no. 1), and he was not permitted by the Snohomish
6 County Superior Court, by way of amendment, to relate the 2011 personal injury claim
7 back to the date of his pleading there (November 26, 2013), see Ex. 1 to Thoreen Decl.
8 (docket no. 25).

9 **Conclusion**

10 For the foregoing reasons, defendant Joshua J. Miller's partial motion to dismiss,
11 docket no. 16, is STRICKEN in part as to plaintiff's second and seventh claims and
12 GRANTED in part as to plaintiff's first and fourth claims. Plaintiff's first and fourth
13 claims are DISMISSED with prejudice as time-barred.

14 IT IS SO ORDERED.

15 Dated this 21st day of August, 2015.

16
17 

18 Thomas S. Zilly
19 United States District Judge
20
21
22
23